UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,249	05/25/2001	Steve J. Mastrianni	YOR920010276US1	3967

35526 7590 07/26/2005		EXAMINER	
DUKE. W. YEE		TIV, BACKHEAN	
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DALLAS, TX 75380		2151	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/865,249	MASTRIANNI ET AL.
	Examiner	Art Unit	
	Backhean Tiv	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 April 2005*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-50* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *7/05*.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

Detailed Action

Claims 1-50 are pending in this application. This is a response to the amendment filed on 4/15/05.

Information Disclosure Statement

The IDS filed on 3/10/05 has been considered.

NonStatutory provisional Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,8,14,19,26,32,35,42,48 are rejected under the judicially created

doctrine of obviousness-type double patenting as being unpatentable over claims 1-10

of US Patent Application 09/866,251 in view of US Patent 6,714,952 issued to Dunham

et al.(Dunham) in further view of WO 99/66401 issued to Muhlestien. This is a

provisional double patenting rejection since the conflicting claims have not in fact been

patented. Although the conflicting claims are not identical, they are not patentably

distinct from each other because of the following reasons:

Claims 1-10 of US Patent Application 09/866,251 teaches all the limitations of

claims 1,8,14,19,26,32,35,42,48 except for:

responsive to receiving a request to migrate an application from the source data

processing system to a destination data processing system; and initiate copying of files

in the list of files from the source data processing system to a correct location on the

destination data processing system, wherein the correct location is determined by

examining system configuration of the destination data processing system.

However, Dunham responsive to receiving a request to migrate an application

from the source data processing system to a destination data processing

system(Abstract); and initiate copying of files in the list of files from the source data

processing system to a correct location on the destination data processing system(col.2,

lines 48-54, col.8, lines 1-6).

Therefore it would have been obvious to one ordinary skill in the art to modify the

method of US Patent Application 09/866,251 to responsive to receiving a request to

migrate an application from the source data processing system to a destination data

processing system(Abstract); and initiate copying of files in the list of files from the

source data processing system to a correct location on the destination data processing

system, as taught by Dunham in order to back-up files(Dunham, col.1, lines 12-13).

One skilled in the art would have been motivated to combine US Patent

Application 09/866,251 and Dunham in order to provide a method to utilize file system

attributes in a multi-lingual file system environment(Dunham, col.1, lines 10-13).

US Patent Application 09/866,251 and Dunham does not explicitly teach wherein

the correct location is determined by examining system configuration of the destination

data processing system.

Muhlestien teaches wherein the correct location is determined by examining

system configuration of the destination data processing system(Abstract, page 7, line 1-

page 9, line 24).

Therefore it would have been obvious to one ordinary skill in the art at the time of

the invention to modify the method of US Patent Application 09/866,251 in view of

Dunham to use correct location is determined by examining system configuration of the

destination data processing system as taught by Muhlestien in order to store data in the

right processing system.

One ordinary skilled in the art would have been motivated to combine the

teachings of US Patent Application 09/866,251, Dunham, and Muhlestien to provide a

system where different files can be stored in different locations(Muhlestien, page 1,

lines 2-35).

Claims 17,18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-23 of US Patent Application 09/866,251 in view of US Patent 6,714,952 issued to Dunham et al.(Dunham) in further view of WO 99/66401 issued to Muhlestien. This is a *provisional* double patenting rejection since the conflicting claims have not in fact been patented. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Claims 17-23 of US Patent Application 09/866,251 teaches all the limitations of claims 17,18 except for:

responsive to receiving a request to migrate an application from the source data processing system to a destination data processing system; and initiate copying of files in the list of files from the source data processing system to a correct location on the destination data processing system, wherein the correct location is determined by examining system configuration of the destination data processing system.

However, Dunham responsive to receiving a request to migrate an application from the source data processing system to a destination data processing system(Abstract); and initiate copying of files in the list of files from the source data processing system to a correct location on the destination data processing system(col.2, lines 48-54, col.8, lines 1-6).

Therefore it would have been obvious to one ordinary skill in the art to modify the method of US Patent Application 09/866,251 to responsive to receiving a request to migrate an application from the source data processing system to a destination data

processing system(Abstract); and initiate copying of files in the list of files from the

source data processing system to a correct location on the destination data processing

system, as taught by Dunham in order to back-up files(Dunham, col.1, lines 12-13).

One skilled in the art would have been motivated to combine US Patent

Application 09/866,251 and Dunham in order to provide a method to utilize file system

attributes in a multi-lingual file system environment(Dunham, col.1, lines 10-13).

US Patent Application 09/866,251 and Dunham does not explicitly teach wherein

the correct location is determined by examining system configuration of the destination

data processing system.

Muhlestien teaches wherein the correct location is determined by examining

system configuration of the destination data processing system(Abstract, page 7, line 1-

page 9, line 24).

Therefore it would have been obvious to one ordinary skill in the art at the time of

the invention to modify the method of US Patent Application 09/866,251 in view of

Dunham to use correct location is determined by examining system configuration of the

destination data processing system as taught by Muhlestien in order to store data in the

right processing system.

One ordinary skilled in the art would have been motivated to combine the

teachings of US Patent Application 09/866,251, Dunham, and Muhlestien to provide a

system where different files can be stored in different locations(Muhlestien, page 1,

lines 2-35).

Claims 1,8,14,19,26,32,35,42,48 are rejected under the judicially created

doctrine of obviousness-type double patenting as being unpatentable over claims 1-10

of US Patent Application 09/866,251 in view of US Patent 6,714,952 issued to Dunham

et al.(Dunham) in further view of US Patent 6,330,570 issued to Crighton. This is a

provisional double patenting rejection since the conflicting claims have not in fact been

patented. Although the conflicting claims are not identical, they are not patentably

distinct from each other because of the following reasons:

Claims 1-10 of US Patent Application 09/866,251 teaches all the limitations of

claims 1,8,14,19,26,32,35,42,48 except for:

responsive to receiving a request to migrate an application from the source data

processing system to a destination data processing system; and initiate copying of files

in the list of files from the source data processing system to a correct location on the

destination data processing system, wherein the correct location is determined by

examining system configuration of the destination data processing system.

However, Dunham responsive to receiving a request to migrate an application

from the source data processing system to a destination data processing

system(Abstract); and initiate copying of files in the list of files from the source data

processing system to a correct location on the destination data processing system(col.2,

lines 48-54, col.8, lines 1-6).

Therefore it would have been obvious to one ordinary skill in the art to modify the

method of US Patent Application 09/866,251 to responsive to receiving a request to

migrate an application from the source data processing system to a destination data

processing system(Abstract); and initiate copying of files in the list of files from the

source data processing system to a correct location on the destination data processing

system, as taught by Dunham in order to back-up files(Dunham, col.1, lines 12-13).

One skilled in the art would have been motivated to combine US Patent

Application 09/866,251 and Dunham in order to provide a method to utilize file system

attributes in a multi-lingual file system environment(Dunham, col.1, lines 10-13).

US Patent Application 09/866,251 and Dunham does not explicitly teach wherein

the correct location is determined by examining system configuration of the destination

data processing system.

Crighton teaches wherein the correct location is determined by examining system

configuration of the destination data processing system(Abstract,col.1, lines 55-col.2,

lines 67).

Therefore it would have been obvious to one ordinary skill in the art at the time of

the invention to modify the method of US Patent Application 09/866,251 in view of

Dunham to use correct location is determined by examining system configuration of the

destination data processing system as taught by Crighton in order to store data in the

right processing system.

One ordinary skilled in the art would have been motivated to combine the

teachings of US Patent Application 09/866,251, Dunham, and Crighton to ensure that

the back up job can be completed successfully(Crigton, col.2, lines 26-39).

Claims 17,18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-23 of US Patent Application 09/866,251 in view of US Patent 6,714,952 issued to Dunham et al.(Dunham) in further view of US Patent 6,330,570 issued to Crighton. This is a *provisional* double patenting rejection since the conflicting claims have not in fact been patented. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Claims 17-23 of US Patent Application 09/866,251 teaches all the limitations of claims 17,18 except for:

responsive to receiving a request to migrate an application from the source data processing system to a destination data processing system; and initiate copying of files in the list of files from the source data processing system to a correct location on the destination data processing system, wherein the correct location is determined by examining system configuration of the destination data processing system.

However, Dunham responsive to receiving a request to migrate an application from the source data processing system to a destination data processing system(Abstract); and initiate copying of files in the list of files from the source data processing system to a correct location on the destination data processing system(col.2, lines 48-54, col.8, lines 1-6).

Therefore it would have been obvious to one ordinary skill in the art to modify the method of US Patent Application 09/866,251 to responsive to receiving a request to migrate an application from the source data processing system to a destination data

processing system(Abstract); and initiate copying of files in the list of files from the source data processing system to a correct location on the destination data processing system, as taught by Dunham in order to back-up files(Dunham, col.1, lines 12-13).

One skilled in the art would have been motivated to combine US Patent Application 09/866,251 and Dunham in order to provide a method to utilize file system attributes in a multi-lingual file system environment(Dunham, col.1, lines 10-13).

US Patent Application 09/866,251 and Dunham does not explicitly teach wherein the correct location is determined by examining system configuration of the destination data processing system.

Crighton teaches wherein the correct location is determined by examining system configuration of the destination data processing system(Abstract,col.1, lines 55-col.2, lines 67).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the method of US Patent Application 09/866,251 in view of Dunham to use correct location is determined by examining system configuration of the destination data processing system as taught by Crighton in order to store data in the right processing system.

One ordinary skilled in the art would have been motivated to combine the teachings of US Patent Application 09/866,251, Dunham, and Crighton to ensure that the back up job can be completed successfully(Crigton, col.2, lines 26-39).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent 6,714,952 issued to Dunham in view of 2002/0120634 issued to Min et al.(Min)

in further view of WO 99/66401 issued to Muhlestien.

As per claim 1,8,14,17,18,19,26,32,35,42,48, Dunham teaches a data processing

system comprising:

a bus system(col.1, line 16, it is implicit that there is a bus system because all

computers have a bus system in order for it to operate);

a communications unit connected to the bus system(Fig.1, it is implicit that the

bus system and communication unit are connected to each other in order for the

computer to communicate with other network devices);

a memory connected to the bus system, wherein the memory includes as set of

instructions(col.8, lines 8-10; it is implicit that memory is connected to the bus system

and includes instructions because without the bus system and memory with instructions

the computer would not operate);

and a processing unit connected to the bus system, wherein the processing unit

executes the set of instructions to query a data store at a source data processing

systems containing meta data regarding files associated with the application(col.2, lines

55-64), responsive to receiving a request to migrate an application from the source data

processing system to a destination data processing system(col.2, lines 48-51, col.8, lines 1-3);

receive a result in response to querying the data store, wherein the result includes meta data for each file associated with the application(col.7, lines 39-49, lines 58-60); identify a list of files associated with the application from the meta data(Abstract,);

and initiate copying of files in the list of files from the source data processing system to a correct location on the destination data processing system(col.2, lines 46-67).

Dunham does not explicitly teach wherein the correct location is determined by examining system configuration of the destination data processing system; and wherein the data store includes meta data that describes associations between the files and the application that has accessed the files.

Min teaches wherein the meta data describing associations between the files and applications that have accessed files(Abstract).

Therefore it would have been obvious to one ordinary skilled in the art at the time of the invention to modify the teachings of Dunham to describe metadata as being an association between the files and applications that have accessed files as taught by Min in order to determine which applications have accessed certain files.

One of ordinary skilled in the art at the time of the invention would have been motivated to combine Dunham and Min to provide a system to back up and restore data on a network(Dunham, Abstract).

Dunham in view of Min does not explicitly teach wherein the correct location is

determined by examining system configuration of the destination data processing

system.

Muhlestien teaches wherein the correct location is determined by examining

system configuration of the destination data processing system(Abstract, page 7, line 1-

page 9, line 24).

Therefore it would have been obvious to one ordinary skill in the art at the time of

the invention to modify the method Dunham in view of Min to use correct location is

determined by examining system configuration of the destination data processing

system as taught by Muhlestien in order to store data in the right processing system.

One ordinary skilled in the art would have been motivated to combine the

teachings of Min, Dunham, and Muhlestien to provide a system where different files can

be stored in different locations(Muhlestien, page 1, lines 2-35).

As per claim 2, 20. 36, presenting the list of files to a user in a user interface; and

responsive to receiving a user selection of a set of files from the list of files, storing the

set of files selected by the user at the destination data processing system(Dunham,

Abstract, col.2, lines 46-67; Min, Figs.1-7). Motivation to combine set forth in claim 1.

As per claim 3,9,21,27,37,43, wherein identifying step comprises:

identifying from the meta data a file name and a file location for each file associated with

the application: and building a list of files associated with the application using the file

name and location for each file associated with the application(Dunham, col.2, line 50,

Muhlestien, page, 2, line 10-page 7, line 20). Motivation to combine set forth in claim 1.

As per claim 4, 11, 22, 29, 38, 45 wherein the meta data comprises a last upstate date of each file, a last access time of each file, a name of each file, a location of each file, an application associated with each file, and a user associated for each file(Dunham, col.2, lines 46-67, Min, Figs.3-6, col. 3-7). Motivation to combine set forth in claim 1.

As per claim 5,12,23,30,39,46,wherein identifying and initiating steps are performed by an agent at the destination data processing system, and wherein the agent performs the identifying and initiating steps at a specified time when normal daily operations are not impacted(Muhlestein, page 2-page7, Dunham, col.5, lines 47-55). Motivation to combine set forth in claim 1.

As per claim 6,24,40, wherein. the source data processing system records, in the data store, all files accessed by the application while the application was on the source data processing system(Dunham, col.5, lines 47-55).

As per claim 7,10,25,28,41,44, wherein the initiating copying step comprises: copying files in the list of files from the source data processing system to a management server for temporary storage; and copying the files from the management server to the destination data processing system(Dunham, Abstract).

As per claim 13, 31,47, further comprising presenting a verification of transfer of the files to the user(Dunham, Abstract, Muhlestein, page 3, lines 15-page 7, lines 30).

As per claim 15, 33, 49, wherein the association includes a file name for the file and a program name for the program(Dunham, Abstract).

As per claim 16,34,50 wherein the association further includes at least one of a location

of the file, a time of file access, a date of file access, an extension for the file, and an

identification of a user of the program(Muhlestein, page 3, lines 15-page 7, line 30).

Motivation to combine set forth in claim 1.

Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent 6,714,952 issued to Dunham in view of 2002/0120634 issued to Min et al.(Min)

in further view of US Patent 6,330,570 issued to Crighton.

As per claim 1,8,14,17,18,19,26,32,35,42,48, Dunham teaches a data processing

system comprising:

a bus system(col.1, line 16, it is implicit that there is a bus system because all

computers have a bus system in order for it to operate);

a communications unit connected to the bus system(Fig.1, it is implicit that the

bus system and communication unit are connected to each other in order for the

computer to communicate with other network devices);

a memory connected to the bus system, wherein the memory includes as set of

instructions(col.8, lines 8-10; it is implicit that memory is connected to the bus system

and includes instructions because without the bus system and memory with instructions

the computer would not operate);

and a processing unit connected to the bus system, wherein the processing unit

executes the set of instructions to query a data store at a source data processing

systems containing meta data regarding files associated with the application(col.2, lines

55-64), responsive to receiving a request to migrate an application from the source data

processing system to a destination data processing system(col.2, lines 48-51, col.8,

lines 1-3);

receive a result in response to querying the data store, wherein the result

includes meta data for each file associated with the application(col.7, lines 39-49, lines

58-60); identify a list of files associated with the application from the meta

data(Abstract,);

and initiate copying of files in the list of files from the source data processing

system to a correct location on the destination data processing system(col.2, lines 46-

67).

Dunham does not explicitly teach wherein the correct location is determined by

examining system configuration of the destination data processing system; and wherein

the data store includes meta data that describes associations between the files and the

application that has accessed the files.

Min teaches wherein the meta data describing associations between the files and.

applications that have accessed files(Abstract).

Therefore it would have been obvious to one ordinary skilled in the art at the time

of the invention to modify the teachings of Dunham to describe metadata as being an

association between the files and applications that have accessed files as taught by Min

in order to determine which applications have accessed certain files.

One of ordinary skilled in the art at the time of the invention would have been motivated to combine Dunham and Min to provide a system to back up and restore data on a network(Dunham, Abstract).

Dunham in view of Min does not explicitly teach wherein the correct location is determined by examining system configuration of the destination data processing system.

Crighton teaches wherein the correct location is determined by examining system configuration of the destination data processing system(Abstract,col.1, lines 55-col.2, lines 67).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the method of US Patent Application 09/866,251 in view of Dunham to use correct location is determined by examining system configuration of the destination data processing system as taught by Crighton in order to store data in the right processing system.

One ordinary skilled in the art would have been motivated to combine the teachings of US Patent Application 09/866,251, Dunham, and Crighton to ensure that the back up job can be completed successfully(Crigton, col.2, lines 26-39).

As per claim 2, 20. 36, presenting the list of files to a user in a user interface; and responsive to receiving a user selection of a set of files from the list of files, storing the set of files selected by the user at the destination data processing system(Dunham, Abstract, col.2, lines 46-67; Min, Figs.1-7). Motivation to combine set forth in claim 1.

As per claim 3,9,21,27,37,43, wherein identifying step comprises:

identifying from the meta data a file name and a file location for each file associated with

the application: and building a list of files associated with the application using the file

name and location for each file associated with the application(Dunham, col.2, line 50,

Crighton, col.1, lines 55-col.2, lines 67). Motivation to combine set forth in claim 1.

As per claim 4, 11, 22, 29, 38, 45 wherein the meta data comprises a last upstate

date of each file, a last access time of each file, a name of each file, a location of each

file, an application associated with each file, and a user associated for each

file(Dunham, col.2, lines 46-67, Min, Figs.3-6, col. 3-7). Motivation to combine set forth

in claim 1.

As per claim 5,12,23,30,39,46,wherein identifying and initiating steps are

performed by an agent at the destination data processing system, and wherein the

agent performs the identifying and initiating steps at a specified time when normal daily

operations are not impacted(Crighton, col.1, lines 55-col.2, lines 67, Dunham, col.5,

lines 47-55). Motivation to combine set forth in claim 1.

As per claim 6,24,40, wherein. the source data processing system records, in the

data store, all files accessed by the application while the application was on the source

data processing system(Dunham, col.5, lines 47-55).

As per claim 7,10,25,28,41,44, wherein the initiating copying step comprises:

copying files in the list of files from the source data processing system to a management

server for temporary storage; and copying the files from the management server to the

destination data processing system(Dunham, Abstract).

As per claim 13, 31,47, further comprising presenting a verification of transfer of the files to the user(Dunham, Abstract, Muhlestein, page 3, lines 15-page 7, lines 30).

As per claim 15, 33, 49, wherein the association includes a file name for the file and a program name for the program(Dunham, Abstract).

As per claim 16,34,50 wherein the association further includes at least one of a location of the file, a time of file access, a date of file access, an extension for the file, and an identification of a user of the program(Crighton, col.1, lines 55-col.2, lines 67). Motivation to combine set forth in claim 1.

Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,088,694 issued to Burns et al.(Burns) in view of 2002/0120634 issued to Min et al.(Min) in further view of WO 99/66401 issued to Muhlestien.

As per claim 1,8,14,17,18,19,26,32,35,42,48, Burns teaches a data processing system comprising:

a bus system(Fig.10; it is implicit that there is a bus system because all computers have a bus system in order for it to operate);

a communications unit connected to the bus system(Fig.10, it is implicit that the bus system and communication unit are connected to each other in order for the computer to communicate with other network devices);

a memory connected to the bus system, wherein the memory includes as set of instructions(Fig.10; it is implicit that memory is connected to the bus system and

includes instructions because without the bus system and memory with instructions the computer would not operate);

and a processing unit connected to the bus system, wherein the processing unit executes the set of instructions to query a data store at a source data processing systems containing meta data regarding files associated with the application(Abstract), responsive to receiving a request to migrate an application from the source data processing system to a destination data processing system(col.4, lines 33-67);

receive a result in response to querying the data store, wherein the result includes meta data for each file associated with the application(col.11, lines 30-67); identify a list of files associated with the application from the meta data(col.11, lines 30-67);

and initiate copying of files in the list of files from the source data processing system to a correct location on the destination data processing system(col.4, lines 33-67).

Burns does not explicitly teach wherein the correct location is determined by examining system configuration of the destination data processing system; and wherein the data store includes meta data that describes associations between the files and the application that has accessed the files.

Min teaches wherein the meta data describing associations between the files and applications that have accessed files(Abstract).

Therefore it would have been obvious to one ordinary skilled in the art at the time of the invention to modify the teachings of Burns to describe metadata as being an

association between the files and applications that have accessed files as taught by Min in order to determine which applications have accessed certain files.

One of ordinary skilled in the art at the time of the invention would have been motivated to combine Burns and Min to provide a system to back up and restore data on a network(Burns, Abstract).

Burns in view of Min does not explicitly teach wherein the correct location is determined by examining system configuration of the destination data processing system.

Muhlestien teaches wherein the correct location is determined by examining system configuration of the destination data processing system(Abstract, page 7, line 1-page 9, line 24).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the method of Burns in view of Min to use correct location is determined by examining system configuration of the destination data processing system as taught by Muhlestien in order to store data in the right processing system.

One ordinary skilled in the art would have been motivated to combine the teachings of Min, Burns, and Muhlestien to provide a system where different files can be stored in different locations(Muhlestien, page 1, lines 2-35).

As per claim 2, 20. 36, presenting the list of files to a user in a user interface; and responsive to receiving a user selection of a set of files from the list of files, storing the set of files selected by the user at the destination data processing system(Burns, Abstract,col.11, lines 30-67; Min, Figs.1-7). Motivation to combine set forth in claim 1.

As per claim 3,9,21,27,37,43, wherein identifying step comprises:

identifying from the meta data a file name and a file location for each file associated with

the application: and building a list of files associated with the application using the file

name and location for each file associated with the application(Muhlestien, page, 2, line

10-page 7, line 20). Motivation to combine set forth in claim 1.

As per claim 4, 11, 22, 29, 38, 45 wherein the meta data comprises a last upstate

date of each file, a last access time of each file, a name of each file, a location of each

file, an application associated with each file, and a user associated for each file(Min,

Figs.3-6, col. 3-7). Motivation to combine set forth in claim 1.

As per claim 5,12,23,30,39,46,wherein identifying and initiating steps are

performed by an agent at the destination data processing system, and wherein the

agent performs the identifying and initiating steps at a specified time when normal daily

operations are not impacted(Muhlestein, page 2-page 7). Motivation to combine set

forth in claim 1.

As per claim 6,24,40, wherein. the source data processing system records, in the

data store, all files accessed by the application while the application was on the source

data processing system(Burns, col.11, lines 30-col.12, lines 10).·

As per claim 7,10,25,28,41,44, wherein the initiating copying step comprises:

copying files in the list of files from the source data processing system to a management

server for temporary storage; and copying the files from the management server to the

destination data processing system(Burns, Abstract).

As per claim 13, 31,47, further comprising presenting a verification of transfer of the files to the user(Dunham, Abstract, Muhlestein, page 3, lines 15-page 7, lines 30).

As per claim 15, 33, 49, wherein the association includes a file name for the file and a program name for the program(Burns, Abstract).

As per claim 16,34,50 wherein the association further includes at least one of a location of the file, a time of file access, a date of file access, an extension for the file, and an identification of a user of the program(Muhlestein, page 3, lines 15-page 7, line 30). Motivation to combine set forth in claim 1.

Response to Arguments

All previous rejections are withdrawn due to applicant's amendments.

Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571)272-3941. The examiner can normally be reached on 9 A.M.-12 P.M. and 1 -6 P.M. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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On July 15, 2005, the Central Facsimile (FAX) Number will change from

703-872-9306 to 571-273-8300.

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7/21/05

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